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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,220	09/30/2003	Samuil Shmuylovich	EMC03-17(03087)	9876
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BARRY W. CHAPIN CHAPIN INTELLECTUAL PROPERTY LAW, LLC WESTBOROUGH OFFICE PARK 1700 WEST PARK DRIVE, SUITE 280 WESTBOROUGH, MA 01581			EXAMINER WALERIC CHARLES	
			ART UNIT	PAPER NUMBER
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			03/16/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/675,220

Applicant(s)

SHMUYLOVICH ET AL.

Examiner

ERIC C. WAI

Art Unit

2195

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 36-62 are presented for examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 60-61 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.
4. Claims 60-61 recite that the transaction weight indicates upcoming increased processing requirements required by the agent transaction. A reading of the specification indicates no support for these claim limitations.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 57-61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claims 57-61 depend off claim 1 which is cancelled. For purposes of examination they will be interpreted to depend off claim 36. Appropriate correction is required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 36-58, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oliveira (US Pub No. US 2004/0186904 A1) in view of Sayan et al. (US PG Pub No. US 2002/0169820 A1 hereinafter Sayan), in view of Brenner et al. (US Pat No. 6,658,449 hereinafter Brenner), in view of Liu (US Pat No. 5,825,759), further in view of Krishnan (US Pat No. 5,155,851).

10. Regarding claim 36, Oliveira teaches a method for processing information in a management application, the method comprising the steps of:

receiving at least one first store assignment request ([0025], "new processing task");

receiving load information from a plurality of processor, the load information indicating a relative processing load for respective processor in the plurality of processor ([0025], where in the utilization information is analyzed);

assigning a first processor from the plurality of processors for the first agent to use to perform the agent transaction based on a processor availability of the first processor ([0025], wherein the task is assigned to a specific processor that can handle the task).

11. Oliveira does not teach that the store assignment request originates from an agent that has an agent transaction for processing management data into a managed data object, the management data collected by the first agent. Oliveira deals with load balancing of conference calls in a VOIP system. It would have been obvious to one of ordinary skill in the art that the system users that initiate the calls or tasks of Oliveira's system, is equivalent to the agents. Furthermore, one of ordinary skill can interpret the agents of Applicant's invention as programs or threads that make requests (agent transactions) to be executed.

12. Oliveira does not teach that the processors are store processes. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Oliveira's processors to use a store process. It is well known in the art that a store processes is equivalent to a node or a processor used to execute tasks or processes.

13. Oliveira does not teach the step of identifying a non-available store condition when the load information is not within an acceptable threshold load factor range. However, Oliveira's system ensures that the processing of tasks does not cause overloading ([0026]). It would have been obvious to one of ordinary skill to identify a

condition when all processors are overloaded (i.e. not within an acceptable threshold load factor range).

14. Oliveira does not teach that during the non-available store condition, maintaining an agent wait table containing agent entries and identifying agents as non-responding when no store assignment requests have been received from those agents for a predetermined agent timeout period.

15. Sayan teaches a method using a pool of agents to handle client transactions ([0013]), where idle agent processes are terminated when such agents are idle for more than a predetermined period of time ([0143]).

16. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Oliveira to use agents to handle transactions and identify when such agents are non-responsive. One would be motivated by the desire to make more efficient use of resources (Sayan [0012]) and recycle resources utilized by unresponsive agents.

17. Oliveira and Sayan do not teach that maintaining an agent wait table comprises; each agent in the agent wait table identifying corresponding wait times for agents that have supplied store assignment requests for processing an agents transaction with one of the plurality of the store processes.

18. Brenner teaches the use of a starvation load balancing technique that tracks waiting threads (col 8 lines 4-10). It would have been obvious to one of ordinary skill in

the art at the time of the invention to include tracking each request according to its wait time. One would be motivated by the desire to ensure the requests are processed in a timely manner.

19. Oliveira also does not teach that after assignment of the first processor for the first agent to use, establishing a recently assigned agent condition associated with the first processor, and clearing the recently assigned agent condition after the predetermined agent assignment interval has elapsed.

20. Liu teaches a method of utilizing a mobile floating agent protocol wherein a timer and a least recently used parameter are set for each agent (col 7 lines 47-50). Liu teaches the use of a least recently used parameter to track usage of agents in order to reclaim resources (col 8 line 60 to col 9 line 2).

21. It would have been obvious to modify Oliveira to utilize a recently used condition along with each store process. One would be motivated by the desire to track the use of store processes in order to evenly distribute the agents so as to not overwhelm a particular process.

22. Oliveira and Liu do not teach that the recently assigned agent condition defines an acceptable number of agents assigned to the first processor during a predetermined agent assignment interval, whereby: if the recently assigned agent condition associated with first processor equals the acceptable number of agents during the predetermined agent assignment interval, selecting a processor from the plurality of processors for

processing a second agent transaction other than the first store process to which the recently assigned agent condition applies.

23. Krishnan teaches a method for selecting a processing station with lowest utilization factor (col 1 lines 66 to col 2 line 3). Jobs are then routed to the selected station as long as the utilization factor (i.e. recently assigned agent condition) is less than a threshold (i.e. acceptable number of agents), otherwise the job is blocked until a processing station is available (col 2 lines 3-8).

24. It would have been obvious to one of ordinary skill in the art at the time of the invention to assign store processes that are currently utilized below some threshold. One would be motivated by the desire to ensure that the store processes are not overloaded and load balancing occurs as taught by Krishnan.

25. Regarding claim 37, Oliveira teaches determining processor availability of the plurality of processors based on the received load information comprises:

for each processor of the plurality of processors:

i) if the load information for that processor is within an acceptable threshold load factor range, identifying that processor as an available processor within the plurality of processors ([0027] wherein a processor does not issue an alert to the controller to signal that it is overloaded); and

ii) if the load information for that processor is not within the acceptable threshold load factor range, identifying that processor as an unavailable

processor within the plurality of processors ([0027] wherein a processor issues an alert to the controller to signal that it is overloaded).

26. Regarding claim 38, Brenner teaches that if a wait time for an agent identified in an agent entry in the agent wait table exceeds an agent wait threshold, identifying that agent entry in the agent wait table as a starving agent entry (col 8 lines 14-16).

27. Regarding claim 39, Oliveira, Sayan, Brenner, Liu, and Krishnan teach assigning a processor of the plurality of processors for the agent to use to perform the transaction based on the determined processor availability comprises:

if there is at least one starving agent entry identified in the agent wait table, and if the store assignment request is received from an agent associated with a starving agent entry, and if there is at least one processor of the plurality of processors that is identified as an available processor (Brenner col 8 lines 16-19, wherein the dispatcher identifies starving threads), then:

i) assigning an available processor of the plurality of processors that has the most favorable load information as a selected processor for use in processing the agent transaction for the agent identified in the starving agent entry in the agent wait table (Oliveira [0025]); and

ii) forwarding a store assignment response identifying the selected processor to the agent providing the store assignment request corresponding to the starving agent entry in the agent wait table (Oliveira Fig 3, 340); and

iii) removing the starving agent entry from the agent wait table (Brenner, col 8 lines 16-19, wherein the thread is removed from the queue).

28. Regarding claim 40, Oliveira, Sayan, Brenner, Liu, and Krishnan do not explicitly teach that assigning a processor of the plurality of processors for the agent to use to perform the transaction based on the determined processor availability comprises:

if there is at least one starving agent entry identified in the agent wait table and the store assignment request is received from an agent that is not associated with a starving agent entry, then:

i) updating the agent entry associated with the agent that provided the store assignment request in the agent wait table to indicate receipt of the store assignment request; and

ii) skipping assignment of an available processor to the agent that provided the store assignment request in order to wait for receipt of a store assignment request from an agent associated with a starving agent entry in the agent wait table.

29. However, it would have been obvious to one of ordinary skill in the art to include the updating of each agent entry upon receiving a new store assignment request and skipping assignments to agents not on the starvation list. One would be motivated by the desire to continually updated the wait table to track new requests and give priority to starving agents as taught by Brenner (col 8 lines 20-25).

30. Regarding claim 41, Oliveira, Sayan, Brenner, Liu, and Krishnan do not teach identifying when an agent entry in the agent wait table has received no store assignment requests for a predetermined agent timeout period and in response, identifying the agent entry associated with that agent in the agent wait table as a non-responding agent.

31. It would have been obvious to one of ordinary skill in the art at the time of the invention to include marking non-responding agents. One would be motivated by the desire to focus the system resources on agents that are actively making requests.

32. Regarding claim 42, Oliveira teaches assigning a processor of the plurality of processors for the agent to use to perform the transaction based on the determined processor availability comprises:

determining if there is at least one processor of the plurality of processors that is identified as an available processor (Fig 3, 330), and if so:

i) assigning a processor of the plurality of processors that has the most favorable load information as a selected processor for use in processing the agent transaction for the agent (Fig 3, 340)

ii) forwarding a store assignment response identifying the selected processor to the agent providing the store assignment request (wherein it is inherent that some response must be sent to indicate the coupling of request to processor).

33. Regarding claim 43, Oliveira teaches repeating receiving load information, determining processor availability, receiving a store assignment request from an agent and assigning a processor such that, over time, assignment of processors to handle processing of agent transactions is load balanced across the plurality of processors based on the load information from the processors ([0007]).

34. Regarding claim 44, Oliveira teaches that the load information received from the plurality of processor includes a current collective transaction weight of all currently assigned transactions for each processor ([0022], wherein the CPU utilization information can include the number of conferences or participants); and

the store assignment request received from the agent has an associated transaction weight of the agent transaction to be performed with a processor ([0026], wherein the amount of processing required to support the new task is determined);

and wherein assigning a processor of the plurality of processors for the agent to use to perform the agent transaction comprises:

for each available processor, calculating a new collective transaction weight as a sum of the current collective transaction weight and the transaction weight of the agent transaction to be performed with a processor ([0026], wherein the system determines whether the new task can be supported);

determining if there is at least one processor of the plurality of processors that has a new collective transaction weight that is within an acceptable collective

transaction-weight ([0026], wherein the system determines whether the new task will overload the processor), and if so:

i) assigning a processor of the plurality of processors that has the new collective transaction weight that is within an acceptable collective transaction weight as a selected processor for use in processing the agent transaction for the agent ([0026], wherein the task is assigned); and

ii) forwarding a store assignment response identifying the selected processor to the agent providing the store assignment request ([0026], wherein an acknowledgement must be sent).

35. Regarding claim 45, Oliveira, Sayan, Brenner Liu, and Krishnan do not teach that the management application is a storage area network management application;

the store assignment requests are received from agent processes operating on host computer systems in the storage area network that collect management data on behalf of managed entities associated with the agent processes, the agent processes transferring the management data within agent transactions to processors to which they are assigned; and

the plurality of processors operate to process the agent transactions to store the management data into a management database on behalf of the plurality of agent processes.

36. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Oliveira for use in a storage area network management application.

One would be motivated by the desire to extend the teachings of Oliveira for purposes of managing a storage area network.

37. Regarding claims 46-55, they are the computer system claims of claims 36-45 above. Therefore they are rejected for the same reasons as claims 36-45 above.

38. Regarding claims 56 and 62, they are the computer program product and computer-implemented method claims of claim 36 above. Therefore they are rejected for the same reasons as claim 36 above.

39. Regarding claim 57, Oliveira, Sayan, Brenner, Liu, and Krishnan teach that assigning the first store process from the plurality of store processes for the first agent to use to perform the agent transaction based on a store process availability of the first store process includes:

identifying the first agent as a starving agent among the agents with corresponding agent entries in the agent wait table (Brenner col 8 lines 14-19); and

detecting a termination of the non-available store condition due to a change in the load information for the first store process (Krishnan col 1 line 63 to col 2 line 8, wherein it is inherent that Krishnan would detect that processing stations are available based checking occupancy factors at predetermined time intervals).

40. Regarding claim 58, Krishnan teaches that detecting the termination of the non-available store condition due to a change in the load information for the first store process includes:

detecting the load information for first store process has transitioned from being outside an acceptable threshold load factor range to being within the acceptable threshold load factor range (col 1 line 63 to col 2 line 8, wherein jobs are blocked until the utilization factors are below the preselected threshold).

41. Claims 59-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oliveira (US Pub No. US 2004/0186904 A1) in view of Sayan et al. (US PG Pub No. US 2002/0169820 A1 hereinafter Sayan), in view of Brenner et al. (US Pat No. 6,658,449 hereinafter Brenner), in view of Liu (US Pat No. 5,825,759), in view of Krishnan (US Pat No. 5,155,851) further in view of Ramakrishnan et al (US Pat No. 6,085,215).

42. Regarding claim 59, Oliveira, Sayan, Brenner, Liu, and Krishnan do not teach for each store process, receiving load information including a transaction weight reflecting an upcoming processing requirement for an agent transaction currently assigned to the store process.

43. Ramakrishnan teaches a method using weights to indicated the processing requirements of a thread (col 8 lines 28-31). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the use of transaction

weights to indicate processing requirements. One would be motivated by the desire to have such information to make better scheduling decisions as taught by Ramakrishnan.

44. Regarding claims 60-61, Oliveira, Sayan, Brenner, Liu, Krishnan, and Ramakrishnan do not teach for each store process, receiving load information including a transaction weight for an agent transaction currently in progress at the store process, the transaction weight indicating upcoming increased processing requirements required by the agent transaction.

45. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ramakrishnan to include that the transaction weight is indicative of upcoming increased processing requirements. One would be motivated by the desire to have such information to make better scheduling decisions.

Response to Arguments

46. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

47. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

48. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric C. Wai whose telephone number is 571-270-1012. The examiner can normally be reached on Mon-Thurs, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng - Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Meng-Ai An/
Supervisory Patent Examiner, Art Unit 2195

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